

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE:) BANKRUPTCY CASE
)
BOYD SHANE COLLIE) NO. 04-43621
)
Debtor)
-----)
)
WELLS FARGO BANK, N.A.,) JUDGE: PAUL W. BONAPFEL
SUCCESSOR BY MERGER TO WELLS)
FARGO HOME MORTGAGE, INC.)
)
Movant)
) CHAPTER 7
vs.)
)
BOYD SHANE COLLIE)
L. LOU ALLEN, Trustee)
)
Respondents)

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

COMES NOW Movant and shows this Court the following:

1.

This is a Motion under Section 362(d) of the Bankruptcy Code for relief from the automatic stay for the purpose of foreclosing on certain real property.

2.

Movant is the servicer of a loan secured by certain real property in which Debtor claims an interest. Said real property

is security for a promissory note, and is commonly known as 5676 Rutland Drive, Powder Springs, Georgia.

3.

Debtor is in default in payment of the monthly installments pursuant to the Note and Security Instrument. Through the month of October 2004, six (6) payments have been missed.

4.

The unpaid principal balance is \$171,761.70, and interest is due thereon in accordance with the Note.

5.

Movant is not adequately protected and shows that there is cause for relief from the automatic stay.

6.

Because there may be little or no equity in the property which could benefit the Estate, the Trustee's interest should be deemed abandoned.

7.

Because the Security Instrument so provides, Debtor is responsible for Movant's reasonable attorney's fees.

WHEREFORE, Movant prays for an Order lifting the automatic stay, authorizing Movant to exercise its rights under the Note,

Security Instrument and appropriate state statutes, including, but not limited to, the right to foreclose on its collateral. Movant prays for reasonable attorney's fees and for such other and further relief as is just and equitable.

S/

Alice A. Blanco, Bar No. 062160
Attorney for Movant

McCalla, Raymer, Padrick, Cobb, Nichols & Clark
1544 Old Alabama Road
Roswell, Georgia 30076-2102
(770) 643-2148
(800) 845-8633

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FOR THE NORTHERN DISTRICT OF GEORGIA
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IN RE:) BANKRUPTCY CASE
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BOYD SHANE COLLIE) NO. 04-43621
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Debtor)

)
WELLS FARGO BANK, N.A., SUCCESSOR BY) JUDGE: PAUL W. BONAPFEL
MERGER TO WELLS FARGO HOME MORTGAGE,)
INC.)
)
Movant)
) CONTESTED MATTER
vs.)
)
BOYD SHANE COLLIE)
L. LOU ALLEN, Trustee)
)
Respondents)

NOTICE OF ASSIGNMENT OF HEARING

NOTICE IS HEREBY GIVEN THAT a Motion for Relief from the automatic stay has been filed in the above-styled case. In the event a hearing cannot be held within thirty (30) days from the filing of the motion for relief from the automatic stay as required by 11 U.S.C. Section 362, Movant waives this requirement and agrees to the next earliest possible date, as evidenced by the signature of its counsel below. The undersigned consents to the automatic stay (and any related co-debtor stay) remaining in effect with respect to Movant until the Court orders otherwise.

A HEARING will be held on the 17th day of November, 2004 at 10:15 A.M., in Courtroom 326, United States Bankruptcy Courthouse, 600 East First Street, Rome, Georgia.

Within three days of the date of this notice, Movant's attorney or a pro se Movant, shall serve the motion and this notice upon the Debtor, Trustee and their attorneys of record, and shall file a certificate of service within three days of service. BLR 9007-2 NDGa.

DATED: 10/8/04

W. YVONNE EVANS, CLERK
UNITED STATES BANKRUPTCY COURT

CONSENTED TO:

____S/_____
Alice A. Blanco, Bar No. 062160
Attorney for Movant
McCalla, Raymer, Padrick, Cobb, Nichols & Clark, LLC
1544 Old Alabama Road
Roswell, Georgia 30076-2102
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BANKRUPTCY CASE NO. 04-43621

CHAPTER 7

JUDGE: PAUL W. BONAPFEL

CERTIFICATE OF SERVICE

I, Alice A. Blanco, of McCalla, Raymer, Padrick, Cobb, Nichols & Clark, 1544 Old Alabama Road, Roswell, Georgia 30076-2102, certify:

That on the date below, I served a copy of the within NOTICE OF ASSIGNMENT OF HEARING, together with the "MOTION FOR RELIEF FROM THE AUTOMATIC STAY" filed in this bankruptcy matter on the following parties at the addresses shown, by regular United States Mail, postage prepaid, unless another manner of service is expressly indicated:

Boyd Shane Collie
323 Waburn Walk
Dallas, GA 30132

J. Annette Drennon, Esquire
Perrotta, Cahn & Prieto, P.C.
102 North Bartow Street
Cartersville, GA 30120

L. Lou Allen, Trustee
The Oglethorpe Bldg., Suite 181
2971 Flowers Road South
Atlanta, GA 30341

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on 10/8/04 By: S/
(date) Alice A. Blanco, Bar No. 062160
Attorney for Movant